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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,291	08/24/2005	Mark Eric Prentice	93602	6464
24628 7590 10/30/2008 Husch Blackwell Sanders, LLP Welsh & Katz 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606				
EXAMINER				
BARAN, MARY C				
ART UNIT		PAPER NUMBER		
2857				
MAIL DATE		DELIVERY MODE		
10/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/522,291

Applicant(s)

PRENTICE ET AL.

Examiner

MARY C. BARAN

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-40, 43, 45, 79, 80 and 83-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-40, 43, 45, 79, 80 and 83-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The action is responsive to the Amendment filed on 25 June 2008. Claims 38-40, 43, 45, 79, 80 and 83-86 are pending. Claims 38, 39, 45, 81 and 83 are amended. Claims 1-37, 41, 42, 44 and 46-78 are cancelled.

2. The amendments filed 25 June 2008 are sufficient to overcome the prior objections to the specification and claims and 35 U.S.C. 112 second paragraph rejections.

Information Disclosure Statement

3. The information disclosure statements filed 7 March 2005 and 1 May 2006 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. Any reference not considered has been marked with a line through it on the information disclosure statement. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38-40, 43, 45, 79, 80 and 83-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGivern (U.S. Patent No. 6,952,881) in view of Beason et al. (U.S. Patent No. 6,529,827) (hereinafter Beason).

Claims 38-40, 43, 45, 79, 80 and 83-86 are rejected under 35 U.S.C. 102(e) as being anticipated by McGivern (U.S. Patent No. 6,952,881).

Referring to claim 38, McGivern teaches a method of operating a mobile instrument (see McGivern, column 2 lines 18-21), configured to capture an image of a target and spatial data for determination of a position of the target (see McGivern, column 9 lines 50-65) the instrument including two or more measuring devices, the measuring devices including a camera for capturing spatial data for determination of the position of the target (see McGivern, column 9 lines 50-53) and one or more spatial sensor (see McGivern, column 3 lines 46-51):

the method including asynchronously controlling the supply of power to at least two of the measuring devices (see McGivern, column 7 line 61 – column 8 line 2), but does not teach a plurality of spatial sensors.

Beason teaches a plurality of spatial sensors (i.e. altimeter, compass, GPS) (see Beason, Abstract).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify McGivern to include the teachings of Beason because including

multiple sensors in addition to a altimeter which only accounts for tilt would have allowed the skilled artisan to also note the direction and position of the device.

Referring to claim 39, McGivern teaches a mobile instrument (see McGivern, column 2 lines 18-21) configured to capture an image of a target and spatial data for determination of a position of the target (see McGivern, column 9 lines 50-65) including:

two or more measuring devices including a camera (see McGivern, column 9 lines 50-53), and one or more spatial sensors (see McGivern, column 3 lines 46-51) for capturing spatial data for determination of the position of the target (see McGivern, column 9 lines 50-65);

a first power switch operable to control power to one or more first ones of the measuring devices (see McGivern, column 7 line 61 – column 8 line 2);

a second power switch to control power to one or more second ones of the measuring devices (see McGivern, column 7 line 61 – column 8 line 2); and

a power controller capable of asynchronously operating the first and second power switches (see McGivern, column 7 lines 56-66 and Figure 1 "power supply 108"), but does not teach a plurality of spatial sensors.

Beason teaches a plurality of spatial sensors (i.e. altimeter, compass, GPS) (see Beason, Abstract).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify McGivern to include the teachings of Beason because including

multiple sensors in addition to a altimeter which only accounts for tilt would have allowed the skilled artisan to also note the direction and position of the device.

Referring to claim 40, McGivern teaches that the power controller is at least partially integrated with one of the measuring devices (see McGivern, Figure 1 "power supply 108").

Referring to claim 43, McGivern teaches that the power controller includes one or more power control lines for controlling the power switches (see McGivern, column 7 lines 56-66), a camera data line coupled to the camera (see McGivern, column 9 lines 50-57), and one or more sensor data lines each coupled to a respective spatial sensor (see McGivern, column 3 lines 46-51).

Referring to claim 45, McGivern teaches that the one or more spatial sensors include one or more of: a distance meter (see McGivern, column 3 lines 41-43), a global positioning system (see McGivern, column 13 lines 31-36), and an orientation sensor (see McGivern, column 3 lines 57-67).

Referring to claim 79, McGivern teaches that the power controller includes a processor (see McGivern, Figure 6 "control circuitry 106"), and a device for controlling the supply of power to the processor (see McGivern, Figure 6 "switch 110").

Referring to claim 80, McGivern teaches that the power controller includes a processor (see McGivern, Figure 6 "control circuitry 106"), and a device for controlling the supply of power to the processor (see McGivern, Figure 6 "switch 110").

Referring to claim 83, McGivern teaches a port able to be connected to an external sensor from which the mobile instrument may obtain further information; and a third power switch to control power to the port, the power controller being capable of asynchronously controlling the first, second and third power switches (see McGivern, column 13 lines 29-43).

Referring to claim 84, McGivern teaches that the measuring devices include: a distance meter (see McGivern, column 3 lines 41-43), a global positioning system (see McGivern, column 13 lines 31-36) and an orientation sensor (see McGivern, column 3 lines 57-67), and the mobile instrument further includes a display screen (see McGivern, Figure 6 "display module 104").

Referring to claim 85, McGivern teaches that the power controller is a central processing platform which also receives data from the measuring devices (see McGivern, column 3 lines 47-51).

Referring to claim 86, McGivern teaches that the controller is arranged to control the power switches to provide power to a measuring device when it is required to

provide data and not to provide power to the measuring device at other times (see McGivern, column 7 line 56 -- column 8 line 2).

5. Claim 81 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGivern (U.S. Patent No. 6,952,881) in view of Beason et al. (U.S. Patent No. 6,529,827) (hereinafter Beason) and in further view of Miyajima (U.S. Patent No. 5,539,477).

Referring to claim 81, McGivern and Beason teach all the features of the claimed invention except that the device for controlling the supply of power to the processor is a monostable device.

Miyajima teaches that the device for controlling the supply of power to the processor is a monostable device (see Miyajima, Abstract).

It would have been obvious at the time the invention was made to modify McGivern and Beason to include the teachings of Miyajim because using a monostable device to control the power supply would have allowed the skilled artisan to keep the power on or off for a fixed period of time.

6. Claim 82 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGivern (U.S. Patent No. 6,952,881) in view of Beason et al. (U.S. Patent No. 6,529,827) (hereinafter Beason) and in further view of Kashani (U.S. PG Pub No. US 2002/0032875).

Referring to claim 82, McGivern and Beason teach all the features of the claimed invention except that the power controller includes two or more handshaking lines, each coupled to a respective power switch.

Kashani teaches that the power controller includes two or more handshaking lines, each coupled to a respective power switch (see Kashani, page 12 [0188]).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify McGivern and Beason to include the teachings of Kashani because including a handshaking line would have allowed the skilled artisan to provide an acknowledgment of the received data (see Kashani, page 12 [0188]).

Response to Arguments

7. Applicant's arguments with respect to claims 38-40, 43, 45 and 79-86 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY C. BARAN whose telephone number is (571)272-2211. The examiner can normally be reached on Monday to Friday 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on (571) 272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary Catherine Baran/
26 October 2008

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner, Art Unit 2857